

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MATTHEW W. SHERMAN,	:	
	:	NO. 1:02-CV-00824
Petitioner,	:	
	:	
	:	OPINION & ORDER
v.	:	
	:	
	:	
PATRICK HURLEY,	:	
	:	
Respondent.	:	

On October 25, 2002, the Court received Petitioner Matthew W. Sherman's (hereinafter "Sherman") petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (doc. 1). Respondent Patrick Hurley filed a return of writ on January 13, 2003 (doc. 4). The Court did not receive a traverse from Sherman. Ultimately, the assigned Magistrate Judge issued a Report and Recommendation on April 7, 2005, recommending that the petition be dismissed, that no certificate of appealability should issue, and that the Court should deny Sherman leave to proceed in forma pauperis on appeal (doc. 5).

Sherman was served with the Report and Recommendation and was therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th

Cir. 1981). Sherman has failed to file any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C). Pursuant to 28 U.S.C. § 636(b), the Court has reviewed the Report and Recommendation de novo, finding it both thoughtful and proper.

Having reviewed that Magistrate Judge's Report and Recommendation, the Court finds it to be well-reasoned and thorough. Accordingly, the Magistrate Judge's Report and Recommendation (doc. 8) is hereby ADOPTED IN ITS ENTIRETY. Sherman's Petition for Writ of Habeas Corpus (doc. 1) is DISMISSED WITH PREJUDICE. Issuance of a certificate of appealability of this Order pursuant to 28 U.S.C. § 2253(c) is DENIED. The Court hereby CERTIFIES pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order may not be taken in good faith; leave to proceed in forma pauperis on appeal is therefore DENIED.

SO ORDERED.

Dated: May 10, 2005

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge